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09/053,448	04/10/1998	RAOUL MALLART	PHA23383	1361

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US PHILIPS CORPORATION
CORPORATE PATENT COUNSEL
580 WHITE PLAINS RD
TARRYTOWN, NY 10591

EXAMINER
VU, NGOC K

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *08 November 2002* .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-10* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-10* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed November 8, 2002 have been fully considered but they are not persuasive based on the following reasons:

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Mielekamp discloses the system for broadcasting a signal and enabling users to interact with one another, via mutually coupled terminals, by reference to a virtual space. Mielekamp fails to disclose the limitation "enabling switching between the broadcasting mode and the conference mode" as recited in claim 1 and as acknowledged in the Office Action paper No. 18. However, Brown discloses enabling switching between a broadcast mode and an interactive mode. For instance, figure 4 shows displaying option to establish on-demand session at step 46; if user exercises on-demand option, then the network establishes a communication session over a second forward communication channel by launch on-demand portion of the application at step 50; otherwise, stay in broadcast

mode at step 52. As discuss in more detail, option section 21 is a video transmission presenting the user with an option to establish an interactive session, and switching section 23 is enabling the user to establish an interactive session on another channel to receive the on-demand portion of the application (see col. 3-4, lines 65-4). Furthermore, an application may return to a broadcast portion of an application upon completion of an on-demand portion of an application. It is noted that two portions of any particular integrated application operate together to form a logical whole providing the interactive features desired in the application through a combination of broadcast and on-demand modes, preferably in a manner that cannot be detected by a user (see col. 5, lines 1-8; col. 3, lines 54-59). These clearly indicate enabling switching between broadcast portion and on-demand portion. In other words, the Brown's system enabling switching between the broadcast mode and the interactive mode. It would have been obvious to one of ordinary skill in the art to modify Mielekamp by enabling switching between the broadcast mode and the interactive mode as disclosed by Brown in order to allow users selectively tuning into a particular channel or establishing an interactive session via an integrated application from the broadcast network.

Claim 9 comprises the limitation of "switching between making accessible to the broadcast and making accessible to a real-time communication channel with another client" that is similar to the limitation of "enabling switching between the broadcasting mode and the conference mode" as recited in claim 1. Therefore, the interpretation with respect to claim 1 above is same as to claim 9.

With respect to claim 7, applicant argued that neither Mielekamp nor Brown teaches or suggests a trigger unit for trigger formation during the broadcasting of at least one group of end user upon an event relating to the broadcasting. This argument is not persuasive. The recited limitation is read as providing information during the

broadcasting to the end users upon an event relating to the broadcasting. Firstly,

Mielekamp discloses that the system enables the users to interact with one another

during operation as if they were present in a virtual space. Each user corresponds to an

avatar (see col. 4, lines 22-24). Secondly, Mielekamp discloses that via a broadcast

channel, the picture of the virtual space from generator 380 is transmitted with a

broadcast signal (see col. 5, lines 22-24). It is noted that unit 30 generates a broadcast

signal in addition to the picture information for the various terminals (the end users).

Mielekamp further discloses that the broadcast generator 380 composes an own picture

of the virtual space, containing reproductions of the buildings 24, 25 and the sprites 21,

22, 23 in conformity with the locations of the avatars (col. 5, lines 15-18). The term

"information" in claim 7 may read on the broadcast signal. Thus, the recited limitation is

read as a trigger unit for trigger formation during the broadcasting of at least one group

of end user (providing the broadcast signal from generator 380 to the end users) upon

an event relating to the broadcasting (for example, interaction between the users via a

broadcast channel - the movement of avatars through a virtual space).

Thus, the independent claims 1, 7 and 9 are not patentable over Mielekamp in

view of Brown based on at least the reasons above.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

3.   Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mielekamp et al (US 6,323,857 B1) in view of Brown (US 5,805,154 A).

Regarding claim 1, Mielekamp teaches a method of controlling communication to multiple end users at geographically different locations, comprising: enabling interconnecting at least one subset of the end users through a network (enabling users to interact, via a set of interconnected terminals, by reference to a virtual space); enabling interaction between the end users of the subset via the network (the system enables the users to interact with one another during operation as if they were present in a virtual space (see col. 1, lines 6-8, col. 4, lines 22-23). Mielekamp does not teach the method of switching between broadcasting mode and conference mode. However, Brown discloses broadcast portion of application including an option section 21 that presents an option for a user to switch to the on-demand portion of the application and a switching section 23 enabling the user to switch to the on-demand portion of the application, if the option is selected, to establish an interactive session (see col. 3, line 60 to col. 4, line 3, and col. 3, lines 1-10). Therefore, it would have been obvious to one of ordinary skill in the art to modify Mielekamp by enabling switching between the broadcast portion and the on-demand portion of the application in order to allow users selectively tuning into a particular channel or establishing an interactive session via an integrated application from the broadcast network.

Regarding claim 2, Mielekamp discloses broadcasting the interaction to another subset of the end-users (the non-users) (see col. 1-2, lines 66-3, col. 3, lines 1-8).

Regarding claim 3, Mielekamp is modified by Brown further discloses the conversation/interaction between users is broadcast (see abstract, col. 1, lines 52-66).

Regarding claim 4, Mielekamp discloses creating and supplying a graphics representation of the video information to the subset of end users (generating a broadcast signal in addition to the picture information for the various terminals) (see col. 5, lines 9-10).

Regarding claim 5, Mielekamp discloses the end users in the subset is enabled

to interactively modify the graphics representation (the terminals 12, 14 and 16 compose

the visual pictures from a limited set of characters) (see col. 6, lines 34-35).

Regarding claim 6, Mielekamp discloses the interaction is broadcasted to another

subset of end users (reception of the broadcast signal gives non-users the opportunity of

perceiving the virtual space as it is perceived by the users), and one or more of the end

users in the subset is enable to interactively modify the graphics representation (the

terminals 12, 14 and 16 compose the visual pictures from a limited set of characters)

(see col. 2, lines 1-22, 43-48, col. 4, lines 34-35).

Regarding claim 7, Mielekamp discloses a system for controlling communication

between multiple end users at geographically different locations, the system comprising:

a server (10); a respective one of multiple clients (12, 14, 16) for a respective one of the

end users, the clients being coupled to the server (see figure 1); wherein: the server

comprises: a transmission unit (330) for broadcasting content information to the users

(generator 330 applies the picture information to the picture information distribution

system 34 which applies the picture information on its outputs 35 to the various terminals

12, 14, 16 which reproduce the picture); a trigger unit (380) for triggering information

during the broadcasting of at least one group of end users upon an event relating to the

broadcasting (the location of the virtual space reproduced at the center of the picture by

the broadcast signal generator 380 is then chosen so that the avatar associated with the

selected terminal remains in the picture, the picture of the virtual space is transmitted

with a broadcast signal. Selection of the terminal 12, 14, 16 can take place, for example

if the avatar associated with the terminal is sent into a given part of the virtual space); a

unit (310) for controlling the information of the group coupled to the trigger unit (location

control operations for the avatar perform such a movement will be filtered out by the

central processing unit 310) (see col. 5, lines 3-8, col. 4, lines 22-23, col. 6, lines 6-13,

55-60, col. 5, lines 19-30, col. 8, lines 9-14). Mielekamp teaches the system enables the

users to interact with one another during operation as if they were present in a virtual

space. Mielekamp does not teach the feature of switching between making accessible to

broadcasted content information and entering a conference between the end users of

the group via the client. However, Brown discloses broadcast portion of application

including an option section 21 that presents an option for a user to switch to the on-

demand portion of the application and a switching section 23 enabling the user to switch

to the on-demand portion of the application, if the option is selected, to establish an

interactive session (see col. 3, line 60 to col. 4, line 3, and col. 3, lines 1-10). Therefore,

it would have been obvious to one of ordinary skill in the art to modify Mielekamp by

enabling switching between the broadcast portion and the on-demand portion of the

application in order to allow users easily establishing an interactive session.

Regarding claim 8, Mielekamp discloses the server further comprises: a sever

input (31) for receiving video data; and a model generator (380) connected to the server

input for generating a graphics model based on the video data; a server output (330)

connected to the model generator for supply of the model; a respective client comprises

a client input connected (35) to the server output for receipt of the model (see figure 2,

col. 4-5, lines 66-8, col. 4, lines 13-16, col. 5, lines 19-27, col. 6, lines 45-47).

Regarding claim 9, Mielekamp discloses a client apparatus (12, 14, 16) for use

with a video server (10), the client apparatus comprising: a receiver (120, 121 of terminal

12) for receiving a TV broadcast; an input for receipt of a control signal from the server

(in order to enable interactive user control, the server 10 generates signals which are

converted into observable, simulated pictures of the virtual space in the terminals 12, 14,

16). (see col. 4, lines 22-29 and figures 1-2). Mielekamp teaches the system enables the

users to interact with one another during operation as if they were present in a virtual space. Mielekamp does not teach the feature of switching between making accessible to broadcast or making accessible to the end user a real-time communication channel with another client. However, Brown discloses broadcast portion of application including an option section 21 that presents an option for a user to switch to the on-demand portion of the application and a switching section 23 enabling the user to switch to the on-demand portion of the application, if the option is selected, to establish an interactive session on another channel to receive on-demand portion of the application (see col. 3, line 60 to col. 4, line 3, and col. 3, lines 1-10). Therefore, it would have been obvious to one of ordinary skill in the art to modify Mielekamp by enabling switching between the broadcast portion and the on-demand portion of the application in order to allow users selectively tuning into a particular channel or establishing an interactive session via an integrated application from the broadcast network.

Mielekamp does not disclose receiving the information via the Internet from another client. Official Notice is taken that client transmits/receives the information to/from another via the Internet, e.g., Internet relay chat system, is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify Mielekamp by including client receives the information from another client via the Internet in order to provide clients a wide range communications to each other all over the world.

Regarding claim 10, Mielekamp does not disclose 3D graphics model accessible to the end user. Official Notice is taken that three-dimensional world is manipulated in an interactive manner over the Internet and shared by multiple users is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify

Mielekamp by including 3D world in an interactive manner in order to present information in a more visually appealing manner.

Conclusion

3.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Junkin (US 5,860,862) discloses an interactive apparatus and method allows the participants to compete in an interactive game based on an event which is occurring in real time.

Khosla (US 6,080,063) discloses a game play system allows remote players to participate in a concurrent simulation of a live event as the live event is occurring.

Riggins, III (US 6,195,090 B1) discloses a interactive sporting event monitoring system includes a determiner for determining whether video blanking interval data is present in a selected television channel.

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV
January 27, 2003

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600